

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Farmers Insurance Exchange v Felicya Yvonne Thomas**
Docket No. **295311**
L.C. No. **09-006324-NF**

David H. Sawyer, Chief Judge Pro Tem, acting under MCR 7.203(F)(1), orders:

The claim of appeal is DISMISSED IN PART for lack of jurisdiction. The appeal from the October 15, 2009, order that granted defendant-appellee's motion for summary disposition is DISMISSED for lack of jurisdiction because the appeal was not timely filed with respect to this order. MCR 7.204(A)(1)(a). The October 15, 2009, order was the first final order as defined in MCR 7.202(6)(a)(i) and the subsequent motion for attorney fees and costs did not extend the time for filing an appeal from the October 15, 2009, order. *Baitinger v Brisson*, 230 Mich App 112; 583 NW2d 481 (1998). At this time, appellant may seek to appeal the October 15, 2009, order only by filing a delayed application for leave to appeal under MCR 7.205(F).

The appeal may proceed with respect to the November 11, 2009, order awarding attorney fees and costs.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 4 2010

Date

Sandra Schultz Mengel
Chief Clerk